

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA :

v. : **Criminal No. 24-264**

KEITH THOMAS DOUGHERTY :

GOVERNMENT'S MOTION FOR PRETRIAL DETENTION

The defendant, Keith Dougherty, has mailed/filed motions containing threatening language, directed at federal judges, on multiple occasions. He has been prosecuted and convicted once by a federal jury for such filings and served a 41-month prison term in that case, followed by a three year period of supervised release. Just months into that supervised release, he uttered more threatening communications, and so his supervised release was revoked and he served a second prison term, for the violation. While back in prison serving the violation sentence, he mailed/filed the same sort of threatening language a third time.

Because no condition or combination of conditions will reasonably assure the safety of the community at large or any person, and because there is a serious risk that the defendant will flee and fail to appear in Court as required, the government moves pursuant to 18 U.S.C. §§ 3142(e) and (f) for a detention hearing and his pretrial detention.

I. THE FACTS

In support of this motion, the government makes the following representations and proposed findings of fact:

A. Probable Cause And The Evidence In This Case

1. There is probable cause to believe that the defendant has violated Title 18, United States Code, Sections 115 and 876(c) as charged in the Indictment.

2. The evidence in this case is strong. A summary follows:

The original conviction:

The defendant, Keith Dougherty, sent a letter to the (then) Chief Judge of the Middle District of Pennsylvania, Christopher Connor, on May 6, 2017. The letter contained threatening language aimed at the Chief Judge and others, including the statement that

“Keith Dougherty filed the paperwork "to establish a Well Regulated Militia". . .and at the appropriate time "will order the death of 3 State Court Judges by "bashing of skulls". . . and 3 District Court Level Judges and Magistrates by "Isis Style Beheading". . . and 3 Circuit Court Level Judges by "AR 15's" to ensure the "most just speedy and inexpensive" determination as to Habeas Corpous [related to the 2nd & 14th Amendments]...” and “ Once the "Militia" Orders the execution of any Judge for "Constitutional Treason" [there will be no further appeal possible]”.

On April 17, 2019, Dougherty was charged in the United States District Court for the Middle District of Pennsylvania by Indictment with one count of mailing threatening communications to a federal district judge. A four-count Superseding Indictment was later returned, adding charges for additional threats Dougherty allegedly made post-indictment, in which he threatened another judge with execution at the hands of a sniper “to shut her up.”¹ Dougherty added that such a killing would be justified by a claim of necessity under Pennsylvania law. The case was tried before Chief Judge Colm Connolly of the District of Delaware. Dougherty was convicted by a jury.

At sentencing on March 28, 2022, Judge Connolly told Dougherty that his threats were disruptive to the court, and explicitly admonished Dougherty about the severity of his crime and the language used in the threat letter as follows:

“My point is that -- the reason why I was getting to this is until we got to trial, I had not read the threatening communication in its entirety. And, I can't tell you how distressing

1. Dougherty made this threat in an e mail sent to an FBI special agent on March 21, 2019.

and disturbing it was to have Chief Judge Conner walk through in response to questions from the prosecutors, the line by line of the letter. That jury did not take long to reach its verdict, and I'm not surprised. Because when you read that letter, it's frightening. So you say you have no animus. A judge can never read the heart of a person definitively. You can only discern intent by making inferences. And we're not truth sayers. So words matter, actions matter. And it's from those things that judges and juries infer intent. So you say here you don't have animus, but that letter conveyed animus. I don't think it's even a close call... And I try to see good in everybody, but you can't write a letter like that. And the words convey animus. They convey hate, and they are scary. And we can't live in a country where our judges have to worry that because they rule on a default judgment in a civil case in a way that the plaintiff doesn't like, they're going to be subjected to threats. The constitutional government will not work if that's allowed to go unpunished.”²

Dougherty was sentenced to serve 41 months in prison. He would emerge unrehabilitated.

The May 1, 2023 threats (Counts One and Two):

Dougherty served his prison sentence and was released to begin a period of supervised release on December 27, 2022. He took up residence in Maryland, and was supervised by federal probation there. In April of 2023, Dougherty sent an alarming letter to the United States Supreme Court, warning that “a militia as a last resort can lawfully shoot the judge in his/her or theirs head if the judge is engaged in Pennsylvania even a misdemeanor and after warning refuses to cease and desist.”

On May 1, 2023, Dougherty wrote a threatening letter/filing in connection with a case he had previously filed in the Eastern District of Pennsylvania.³ The letter was docketed on May 3, 2023.⁴ In it, Dougherty threatened to have five federal judges shot and killed by his militia

2. Dougherty’s ongoing rancor against the Court apparently arises from his disappointment in the Court’s handling of a civil case that he brought.

3. On March 21, 2023, Dougherty filed a civil action against various judges and a probation officer in the Eastern District of Pennsylvania (Civil Action Number 2:23-cv-01119-NIQA).

Dougherty has filed numerous actions. The Court of Appeals described him as “a frequent and frequently vexatious litigator in this Court” *In re Dougherty*, 563 F. App’x 96, 97 (3d Cir. 2014).

4. Dougherty mailed the filing to the “Clerk of Court Eastern District”. The Clerk duly filed it.

group, paraphrasing the threats that had resulted in his conviction and imprisonment in the first case:

Filed Under Seal, as 'the last warning'; before [A] (Required) 'Declaration of War' [against] The Third Circuit: Remember Pearl Harbor ([Time] Lost in Translation); "If the Execution(s) [by whatever means] of the [Active] Judges [Only] is/are to be deemed Lawful"; under 18 Pa. C.S. § 505/§ 506?

and

As 'attached' Docson's Militia, is 'seeking official authority' [immunity] as a "Last Resort"; as detailed in DC v . Heller. To "Lawfully" order the [Public] Execution of now at minimum of (5) Judges; FBO 'We The Pennsylvania People':The 'Targets' [of Sniper Assassination (by Opportunity)] would be:

1. Chagares
2. Hardiman
3. Connolly
4. Andrews
5. Jordon

Dougherty filed a similar letter, with the same threatening language, in a different case in the Middle District of Pennsylvania, docketed there on May 10, 2023.⁵

The May 8, 2023 threat (Count Three):

Dougherty subsequently wrote a threatening letter to the EDPA Clerk of Court. In it, Dougherty complained that “ Clerk has omitted [the signature page]” of his pleading, and alleged that the clerk also omitted pages from the document. Dougherty concluded that, as a result, “Math Logic says ‘go to the clerks office’[and choke them to death]’if they refuse to enter default’???”

5. Dougherty apparently mailed this filing to the District of Delaware, who forwarded it to the MDPA for filing there.

In the wake of Dougherty's May, 2023 letters to the supreme Court and the Eastern District of Pennsylvania, the United states Probation Office filed a petition to revoke Dougherty's supervised release. On July 13, 2023, the petition was granted. Dougherty was sentenced to serve 15 months in prison for the violation, to be followed by a new term of supervised release.

The March 1, 2024 threats (Count Four):

While in federal prison serving his sentence for violating supervised release, Dougherty again sent threats to the court. On March 1, 2024, the Third Circuit Court of Appeals received another mailed filing from Dougherty in which he basically repeated the threats that had already resulted in his two previous prison terms, and even referenced his original 2017 threats to (then) Middle District Chief Judge Connor.⁶ In a document captioned "[Not Reckless] Counterman v. Colorado, 600 U.S. _ (6/27/2023); ('Legally Justifiable [Under Act 10 (2011) to [Order the Death of All Active Judges [involved]] who 'have been warned to cease and desist' and Have [willingly] Refused');"⁷ Dougherty wrote:

Once Again Act 10 (2011) 'provides' not only can 'Pennsylvania Actors' [not be charged criminally] they are 'Immune from civil prosecution'; Therefore 'even though Former Chief Conner' was offended by being told [the] Solution "As a Last Resort" [by] a Well-Regulated-Militia' makes it lawful in Pennsylvania to; Identify one Common Pleas:court Judge, one Superior Court Judge, and One Supreme Court Justice, who 'willingly/neglected' to [enter default]; under Criminal Coercion 2906(1) &(4); when properly sought and Publicly execute them in Front of the Liberty Bell 'broadcast World Wide via YouTube Oust like Hamas 10/7/2023) for maximum effect', and 3 District Court Judges [by Eisis style beheadings] (Just like 10/7/2023); and 3 Circuit Court Judges by AR 15 ... [in reference to] Highland Park Illinois 'outlawing ownership of AR (Style Guns]' ... Just Like Hamas 10/7/2023 ... to raise up, the Ten Million Man Army we might 2 Need to Evict the Third Circuit from Pennsylvania under Article I Section

6. Dougherty mailed this filing to the "Civ Clerk Third Cir", and the Clerk filed it on his behalf.

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of the Pennsylvania Declaration of Rights ... then confirmed in *Counterman v. Colorado* as "Legally Justified";"

In sum, Dougherty's rage and animus towards judges and court personnel is clearly unabated, and dangerous. Dougherty has mailed the same vile threats – threats to have a militia kill judges, or to kill court personnel - with slight variations on at least four occasions. He has been admonished and imprisoned by a federal judge for doing so on two occasions. He is thus far undeterred; to the contrary, he has done so from his prison cell. He is on federal supervised release, but as recently as July 22, 2024, he sent a motion to the Third Circuit Court of Appeals expressing his view that the law would allow him to “shoot any constitutional officer in the head” if he chooses to do so in pursuit of a “Declaratory Judgment.”

B. Maximum Penalties

A violation of Title 18 United States Code, Section 115(a)(1)(B) carries a statutory maximum sentence of ten years imprisonment, three years of supervised release, a \$250,000 fine, and a \$100 special assessment.

A violation of Title 18 United States Code, Section 876(c) carries a statutory maximum sentence of ten years imprisonment, three years of supervised release, a \$250,000 fine, and a \$100 special assessment.

The defendant thus faces a total maximum sentence of 40 years in prison, three years' supervised release, a \$1,000,000 fine, and a \$400 special assessment.

C. Criminal Record

As discussed, Dougherty has a prior federal conviction for the same types of threats as those he made in this case; he not only has repeated those threats, but has done so while on

supervised release from the original case, and then again from his prison cell while serving a sentence for violating supervised release.

D. Effect Of Community Ties/Employment

Dougherty's community ties, if any, have thus far proven insufficient to prevent him from repeated violations of law.

II. CONCLUSION

When all these factors are viewed in light of the substantial sentence defendant faces, it is clear that no condition or combination of conditions will reasonably assure the safety of any other person or the community, or assure that the defendant will appear as required.

WHEREFORE, the government respectfully submits that its Motion for Defendant's Pretrial Detention should be granted.

Respectfully submitted,

United States Attorney

s/Joseph A. LaBar
JOSEPH A. LaBAR
Assistant United States Attorney

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PRETRIAL DETENTION ORDER

AND NOW, this day of , 2024, after an evidentiary hearing and argument of counsel for the government and the defendant, the Court finds that:

- (a) the government has proved by clear and convincing evidence that no condition or combination of conditions will reasonably assure the safety of other persons and the community, as required by Title 18, United States Code, Section 3142(e).
- (b) the government has proven by a preponderance of evidence that that no condition or combination of conditions will reasonably assure the defendant's appearance in court, as required by Title 18, United States Code, Section 3142(e).

The Court makes the following findings of fact:

This case is appropriate for detention under Title 18, United States Code, Section 3142(e) based on the following:

A. Probable Cause And The Evidence In This Case

- 1. There is probable cause to believe that the defendant has violated Title 18, United States Code, Sections 115 and 876(c) as charged in the Indictment.
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The defendant thus faces a total maximum sentence of 40 years in prison, three years' supervised release, a \$1,000,000 fine, and a \$400 special assessment.

C. Criminal Record

As discussed, Dougherty has a prior federal conviction for the same types of threats as those he made in this case; he not only has repeated those threats, but has done so while on supervised release from the original case, and then again from his prison cell while serving a sentence for violating supervised release.

D. Effect Of Community Ties/Employment

Dougherty's community ties, if any, have thus far proven insufficient to prevent him from repeated violations of law.

Therefore, IT IS ORDERED that the defendant be committed to the custody of the Attorney General for confinement in a correction facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal; that the defendant be afforded reasonable opportunity for private consultation with counsel; and that, on

order of a Court of the United States, or on request of an attorney for the government, the person in charge of the corrections facility in which the defendant is confined deliver the defendant to a United States Marshal for the purpose of an appearance in connection with a court proceeding.

BY THE COURT:

HONORABLE PAMELA A. CARLOS
United States Magistrate Judge

CERTIFICATE OF SERVICE

I certify that a copy of the Government's Motion for Pretrial Detention, and Proposed Order was served via electronic court filing, on the following defense counsel:

Mr. Keith Dougherty
Lehigh County Prison

Mark Wilson, Esquire

s/Joseph A. LaBar
JOSEPH A. LaBAR
Assistant United States Attorney

Date: July 24, 2024